



April 19, 2017

Honorable Rob Bonta
California State Assembly
State Capitol Room 2148
Sacramento, California 95814

RE: AB 1479 (SUPPORT)

I write on behalf of the First Amendment Coalition (FAC) to express FAC's support of your AB 1479, which would promote government transparency by providing additional and much-needed incentives for government agencies to comply with the clear mandates of the California Public Records Act and the California Constitution to provide the public prompt access to government records.

FAC is a nonprofit, nonpartisan group comprised of citizen activists, journalists, media outlets, professors and others interested in free speech and access to government records and meetings. FAC's overriding goal is to promote free speech and government transparency by ensuring that government agencies comply with their obligations under the California Public Records Act (among other access regimes), and by providing the public with the necessary tools for understanding, using and enforcing public access laws in California and beyond.

Among the services FAC provides to the public is a free Legal Hotline for those who have questions about obtaining public records, or who encounter difficulties in obtaining such records. Thus, FAC regularly comes into contact with ordinary citizens and others who have been frustrated in their efforts to obtain timely information about their government.

We routinely see complaints about the failure of government agencies to comply with the timelines set forth under the CPRA for responding to requests for public records. Indeed, this is one of the most frequent complaints we receive. It is clear beyond doubt that government agencies across California routinely ignore the timelines set forth under the CPRA. In doing so, they flout one of the primary purposes of the CPRA, to make public records "promptly available" to the public (Gov. Code sec. 6253(a)), and the rights of all Californians under our state's Constitution to "access to information concerning the conduct of the people's business." (Cal. Const., Art. I, sec. 3. See also *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 427 [CPRA procedures "reflect a clear legislative intent that the determination of the obligation to disclose records requested from a public agency be made expeditiously"].)

Delay is particularly problematic for news reporters and others who need information promptly and, for such requesters, a delay in response is effectively a denial. Under the CPRA, government agencies must respond to a request for copies of public records within 10 days. (Gov. Code sec. 6253(c).) The time for responding can be extended by the agency for an additional 14 days in "unusual circumstances." (Id.) However, under present law, there are no specific penalties for exceeding these mandatory time frames. The result is that government agencies routinely take far longer than required to even respond to a request, and in some instances delay for many, many months in providing records.

The problem of agency delay is widespread. As detailed in a March 19, 2016 article in the San Diego Union-Tribune (“Fees, delays, can slow flow of records”), that newspaper collected logs of all CPRA requests from 107 local agencies between January 2015 and March 2016. The logs resulted in a database of more than 11,000 requests. Of those requests, more than 25 percent showed that public agencies missed the CPRA-mandated timelines for disclosure and response. At least one agency took an average of 66 days to respond to requests -- more than six times longer than the 10-day requirement under the CPRA. These findings are in accord with FAC’s experience and, we believe, highlight a serious problem.

AB 1479 provides much needed incentives to curtail such improper delays. For this reason, FAC supports AB 1479.

Sincerely,

A handwritten signature in black ink, appearing to read "David Snyder".

David Snyder
Executive Director
First Amendment Coalition